

### Remarks

Prior to examination of the above-identified reissue application, please cancel claims 1, 2, 11, 12, 21 and 22. Claims 3 – 6, 8 – 10, 13 – 16, 18 – 20, 23 – 26 and 28 – 31 have been amended. Claims 7, 17 and 27 are pending and have not been amended. Consideration and favorable action in this reissue application is respectfully requested.

### Concurrent Proceedings

Reissue is requested for U.S. Patent No. 6,160,621 ('621 Patent). The '621 Patent is presently the subject of ex parte reexamination, Control No. 90/006,192 pending before examiner Rosenberger in Art Unit 2877. An Office action was issued May 14, 2003. Presently, claims 1 – 31 in the reexamination have been rejected.

Pursuant to 37 C.F.R. § 1.565 merger of the reexamination proceeding and this reissue application is requested

### Pending Litigation

The '621 Patent is the subject of pending litigation styled, *Verity Instruments, Inc. v. Lam Research Corporation*, Civil Action No. 4:01CV321 pending in the United States District Court for the Eastern District of Texas, Sherman Division. The subject litigation has been stayed pending the results of the reexamination proceedings identified above.

### Arguments Relating to Patentability

As amended, the pending claims are patentable over U.S. Patent No. 6,111,634 ('634 Patent). The '634 Patent was cited in the concurrent reexamination proceedings under 35 U.S.C. § 103(a) to reject claims 3 – 5, 9, 13 – 15, 19, 23 – 25, 29 and 30. These claims have been rewritten in independent form in this preliminary amendment.

It is respectfully submitted that the '634 Patent should be disqualified as a prior art reference since the '634 Patent is a commonly-owned reference to the '621 Patent. The '634 Patent has been cited in an obviousness rejection under 35 U.S.C. § 103(a) in the concurrent reexamination proceedings, and this reissue application is being filed in order to take advantage of the November 29, 1999 amendments to 35 U.S.C. § 103(c) which applies to reissue applications filed after that date. It is therefore respectfully submitted that the pending claims in the present reissue application are allowable over the '634 Patent.

Attached hereto are statements under 37 C.F.R. 3.73(b) for the '621 Patent and '634 Patent to establish common ownership in Lam Research Corporation.

Allowance of claims 3 – 10, 13 – 20 and 23 – 31 pending in this application is respectfully requested. If the examiner has any questions regarding this reissue application, the examiner is respectfully requested to telephone the undersigned attorney for applicant.

Respectfully submitted,

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